

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
At Charleston**

WEST VIRGINIA LABORERS' PENSION TRUST FUND;
WEST VIRGINIA LABORERS' TRUST FUND; WEST
VIRGINIA LABORERS' ANNUITY & SAVINGS FUND;
WEST VIRGINIA LABORERS' TRAINING TRUST FUND;
WEST VIRGINIA LABORERS' EMPLOYERS
COOPERATION AND EDUCATION TRUST;
WEST VIRGINIA LABORERS' ORGANIZING FUND;
WEST VIRGINIA LABORERS' LOCAL NO. 379,
WEST VIRGINIA LABORERS' LOCAL NO. 453,
WEST VIRGINIA LABORERS' LOCAL NO. 984,
WEST VIRGINIA LABORERS' LOCAL NO. 1085,
WEST VIRGINIA LABORERS' LOCAL NO. 1149;
WEST VIRGINIA LABORERS' LOCAL NO. 1353;
WEST VIRGINIA LABORERS' POLITICAL LEAGUE; and
WEST VIRGINIA LABORERS' DISTRICT COUNCIL-POLITICAL
ACTION COMMITTEE,

Plaintiffs,

v.

CIVIL ACTION NO. 2:04-1233
Judge:

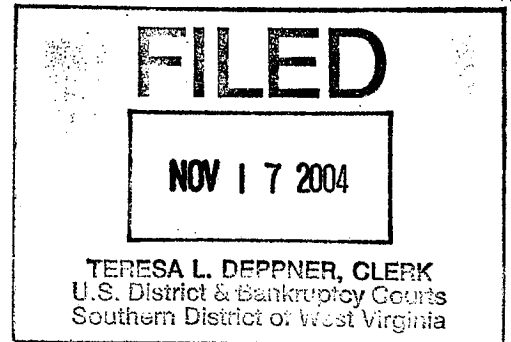
PROFESSIONAL CONSULTANTS, Inc., a domestic corporation
dba MINORITY MANPOWER;
MICKEY G. PETITTO, Individually; and,
SHERRI GALLO, Individually.

Defendants.

COMPLAINT FOR MONETARY DAMAGES AND EQUITABLE RELIEF

Your Plaintiffs respectfully complain and say unto the Court as follows:

1. Jurisdiction of the Court is invoked under the provisions of Section 502
and 515 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.



§§1132 and 1145, as amended by the Multiemployer Pension Plan Amendment Act (MPPAA), 29 U.S.C. §§1132(g) and 1145.

2. Plaintiffs, West Virginia Laborers' Pension Trust Fund ("Laborers' Pension Fund"), West Virginia Laborers' Trust Fund ("Laborers' Trust Fund"), West Virginia Laborers' Annuity & Savings Fund ("Laborers' Annuity Fund") and, West Virginia Laborers' Training Trust Fund ("Laborers' Training Fund") are non-profit organizations operated for the purpose of providing health, pension, training & annuity benefits to participating members, and each constitute an "Employee Benefit Plan "as defined by ERISA,

3. Plaintiffs West Virginia Laborers' Local No. 379 ("Local 379"), West Virginia Laborers' Local No. 453 ("Local 453") , West Virginia Laborers' Local No. 984 ("Local 984"), West Virginia Laborers' Local No. 1085 ("Local 1085"), West Virginia Laborers' Local No. 1353 ("Local 1353") and West Virginia Laborers' Local No. 1149 ("Local 1149") are non-profit employee organizations designed to receive employee dues deducted from the paychecks of participating employees/union members.

4. Plaintiffs' West Virginia Laborers' Employers Cooperation and Education Trust ("LECET"), West Virginia Laborers Organizing Fund ("Organizing Fund"), West Virginia Laborers Political League ("Political League") and West Virginia Laborers' District Council Political Action Committee ("WVDLC-PAC") are non-profit employee funds designated to receive employer contributions and/or employee deductions from the Defendants.

5. Local 984 is located in Clarksburg, West Virginia, Local 379 is located in Fairmont, West Virginia, Local 1085 is located in Parkersburg, West Virginia, Local

1149 is located in Wheeling, West Virginia. All other Plaintiffs are located within the Southern District of the State of West Virginia.

6. Based upon information and belief, Defendant Professional Consultants, Inc., d/b/a Minority Manpower, is a local corporation licensed to do business in the State of West Virginia and is engaged in the construction business.

7. Based upon information and belief defendant, Mickey G. Petitto is a citizen and resident of the State of West Virginia and is the president and one of the principal owners of Defendant Professional Consultants, Inc., d/b/a Minority Manpower.

8. Based upon information and belief defendant, Sherri Gallo is a citizen and resident of the State of West Virginia and is the vice-president and another principal owner of Defendant Professional Consultants, Inc., d/b/a Minority Manpower.

9. Based upon information and belief each defendant is the "alter ego" of the other defendant. Each defendant is an "employer" pursuant to ERISA.

10. At all times material hereto, Defendants were bound to the terms and conditions of successive collective bargaining agreements (referred to herein as the AGREEMENTS) between:

(a) The Constructors' Labor Council of West Virginia, Inc., operating in the State of West Virginia; and

(b) The Laborers' District Council, Charleston, West Virginia, and other designated bargaining agents of Plaintiffs.

11. Pursuant to the respective AGREEMENTS, Defendants are obligated to report and pay to Plaintiffs certain hourly contributions on behalf of employees who are covered by the AGREEMENTS.

12. Pursuant to the respective AGREEMENTS, Defendants are obligated to report, withhold and pay to Plaintiffs certain deductions from employees who are covered by the Collective Bargaining Agreements.

13. Each of the Plaintiffs has been authorized to receive all contributions and/or deductions required to be paid by Defendants pursuant to the respective AGREEMENTS.

14. The Boards of Trustees of the Laborers' Pension Fund, Laborers' Trust Fund, Laborers' Annuity Fund, and Laborers' Training Fund, have previously established interest rates for delinquent contributions and have established liquidated damages when the same are not paid in a timely manner.

15. As of December 31, 2003, Defendants owed Plaintiffs a total liability of not less than One Hundred Thirty Two Thousand, Two Hundred Eighty Six Dollars and Eight Cents (\$132,286.08), exclusive of interest and liquidated damages.

16. Unless the Defendants are required to accurately complete and file all necessary reports and pay all contributions due and owing, Plaintiffs will suffer irreparable injury for which there is no adequate remedy at law.

17. Pursuant to ERISA and MPPAA, Defendants are responsible for reasonable attorney fees and the costs incurred in this action together with the cost of any audits performed to determine liability.

18. A copy of this Complaint will be served upon the Secretary of Labor and Secretary of Treasury as required by ERISA, 29 U.S.C. §1132(h).

PRAYER

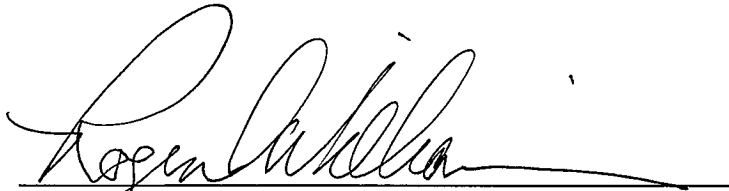
WHEREFORE, Plaintiffs pray this Court will, under 29 U.S.C. § 1132(g)(2):

1. Award judgment to the Plaintiffs against Defendants for the breach of contract in an amount to be later determined, together with interest accruing and liquidated damages as well as the cost of any audits performed by the respective Plaintiffs;
2. Require Defendants to pay the cost of this proceeding, together with reasonable attorney fees necessary for the prosecuting thereof;
3. Restrain and enjoin Defendants, their officers, agents, servants and all persons acting on their behalf or in conjunction with them from further work until the delinquent amounts are paid in full or a bond is posted in the amount of the delinquent contributions and penalties, as required by Article VII, Section 14;
4. Restrain and enjoin Defendants, their officers, agents, servants, attorneys and all persons acting on their behalf or in conjunction with them from accurately completing, refusing, or failing to file accurate, complete and timely remittance reports and to timely pay all amounts due and owing to Plaintiffs for so long hereafter as Defendants are contractually required to do so; and
5. Award Plaintiffs such other and further relief against Defendants as the Court may seem meet and proper.

WEST VIRGINIA LABORERS' PENSION TRUST FUND;
WEST VIRGINIA LABORERS' TRUST FUND; WEST
VIRGINIA LABORERS' ANNUITY & SAVINGS FUND; WEST
VIRGINIA LABORERS' TRAINING TRUST FUND; WEST
VIRGINIA LABORERS' EMPLOYERS COOPERATION AND

EDUCATION TRUST; WEST VIRGINIA LABORERS'
ORGANIZING FUND; WEST VIRGINIA LABORERS' LOCAL
NOS. 379, 453, 984, 1085, 1149, and 1353; WEST VIRGINIA
LABORERS' POLITICAL LEAGUE; and WEST VIRGINIA
LABORERS' DISTRICT COUNCIL-POLITICAL ACTION
COMMITTEE

Plaintiffs By Counsel

A handwritten signature in black ink, appearing to read "Roger Williams", is written over a horizontal line.

Roger D. Williams (W.Va. Bar No. 4052)

James P. McHugh (W.Va. Bar No. 6008)

BARRETT, CHAFIN, LOWRY, AMOS & MCHUGH

Attorneys at Law

One Union Square

Building 2, Suite 201

P.O. Box 6771

Charleston, WV 25362

(304) 720-2434